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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )

MUR 6240 )

STEVE AUSTRIA )

STEVE AUSTRIA FOR CONGRESS AND )

DONALD D. JONES, AS TREASURER )

EILEEN AUSTRIA )

DAVID L. HOBSON )

WALTER A. WILDMAN )

THE TURNER FOUNDATION )

JOHN T. LANDESS )

RAYMOND A. HAGERMAN )

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY

SYSTEM

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, matters that are low-rated (

are

forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6240 as a low-rated matter.

In this matter, the complainant, John R. Mitchel, charges that the following individuals and entities engaged in illegal conduct: former Congressman David L. Hobson of Ohio's Seventh Congressional District; his successor, Congressman Steve Austria; Mr. Austria's campaign committee, Steve Austria for Congress and Donald D. Jones, in his official capacity as treasurer; Mr. Austria's wife, Eileen Austria; Walter A. Wildman, an attorney who serves as the agent for limited liability corporations ("LLCs") Wellington Square and Wellington Square II; the Turner Foundation, a privately-endowed non-profit organization;<sup>1</sup> and John T. Landess and

<sup>1</sup> According to its website, <http://www.hnturnerfoundation.org/>, the Turner Foundation provides discretionary grants for historic preservation and other community revitalization initiatives, and is located within Ohio's Seventh Congressional District.

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1 Raymond A. Hagerman, Executive Director and Director of Finance, respectively, of the Turner  
2 Foundation. First, the complainant asserts that Congressman Austria violated federal campaign  
3 finance laws by "conspiring to conceal through his 2008 Financial Disclosure Statement," which  
4 was filed with the House of Representatives, an alleged conflict of interest caused by his wife's  
5 employment in 2008 with Nextedge Applied Research ("Nextedge"). Specifically, Mr. Mitchel  
6 alleges that Congressman Austria failed to disclose compensation paid to Ms. Austria from  
7 Nextedge on the Financial Disclosure Statement, and that Ms. Austria may have used her  
8 position at Nextedge to raise campaign funds for her husband's congressional campaign.

9 Second, the complainant charges that Congressman Austria's predecessor, former  
10 Congressman David Hobson, had used earmarks directed to Nextedge "and tenants" as a *quid*  
11 *pro quo* for campaign contributions and that Mr. Hobson had used his congressional position, in  
12 addition to his "deep knowledge of real estate," to benefit "himself, family, friends and business  
13 associates."

14 Third, Mr. Mitchel states that Congressman Austria violated federal campaign finance  
15 law by failing to disclose his membership on the Dayton Development Coalition's ("DDC's")  
16 Wright Patt 2010 Committee, which is focused on job creation efforts related to infrastructure  
17 projects at the Wright-Patterson Air Force Base in Ohio's Eighth Congressional District.<sup>2</sup> It  
18 appears that the complainant is suggesting that Mr. Austria may have been trying to conceal an  
19 alleged link between his activities on the Committee and "significant" campaign contributions  
20 from DDC principals and from beneficiaries of "un-bid contracts awarded" by the DDC.

21 Fourth, the complainant states that Congressman Austria violated federal law

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<sup>2</sup> The public record indicates that Mr. Austria was a member of the Committee, which is called "Wright Patt 2020," during his tenure as an Ohio state senator, prior to his election to Congress.

1 --particularly Army Regulation 600-20 and other Department of Defense guidelines--by posting  
2 on his campaign website a photograph of military members in uniform that "gives the  
3 appearance the military supports him as a candidate" and therefore "places these young men in a  
4 compromising position."

5 Finally, Mr. Mitchel augmented his complaint with additional charges, including  
6 allegations that Mr. Wildman, the Turner Foundation, Mr. Landess and Mr. Hagerman may have  
7 engaged in a scheme to "launder taxpayer dollars" through the Wellington Square LLCs and  
8 Nextedge, and that Eileen Austria, who allegedly served as District Director for retiring  
9 Congressman Dave Hobson during her husband's congressional campaign, may have raised  
10 funds for Mr. Austria during work hours.

11 In response, David Hobson, Steve Austria, Eileen Austria, John Landess, Walter  
12 Wildman, and Raymond Hagerman state that the complainant did not provide substantiation for  
13 his allegations. Further, the responses maintain that the wrongdoing alleged by the complainant  
14 appears to fall outside of the Commission's jurisdiction, and point out that the complaint does  
15 not cite to any specific violations of the Federal Election Campaign Act of 1971, as amended  
16 ("the Act"), or the Commission's regulations. For these reasons, the respondents urge the  
17 Commission to dismiss the complaint.<sup>3</sup>

18 The complainant in this matter has presented several issues that appear to fall outside of  
19 the Act or the Commission's regulations. Moreover, the complainant's accusations are  
20 unsubstantiated, unclear or both. Accordingly, after a review of the merits of MUR 6240 and in  
21 furtherance of the Commission's priorities and resources, relative to other matters pending on the  
22 Enforcement docket, the Office of General Counsel believes that the Commission should  
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<sup>3</sup> Neither Congressman Austria's campaign committee nor The Turner Foundation filed a response.

exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


**RECOMMENDATIONS**

The Office of General Counsel recommends that the Commission dismiss MUR 6240, close the file, and approve the appropriate letters.

Thomasenia P. Duncan  
General Counsel

4/24/10  
Date

BY:

  
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Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

  
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Ruth Heilizer  
Attorney, Complaints Examination  
& Legal Administration

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